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July 13, 2023

VIA ECF AND EMAIL

Hon. Katherine Polk Failla
United States District Judge
United States District Court for the Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square, Courtroom 618
New York, NY 10007
Failla_NYSDChambers@nysd.uscourts.gov

MEMO ENDORSED

Re: von der Schmidt et al. v. Morgan Stanley et al., Case No. 22-cv-08198-KPF

Your Honor:

We represent Defendants Morgan Stanley, Matthew Hornbach, and Denise McCool (collectively, "Defendants") in the above-referenced action. We write in brief response to the letter filed by Plaintiffs on July 8, 2023 (Dkt. No. 36). Plaintiffs' letter attaches an email exchange that was plainly marked: "Confidential – Subject to FRE 408." We request that the Court strike Dkt. No. 36 and order Plaintiffs to re-file their letter without improperly including confidential settlement discussions. Unless invited to do so by this Court, Defendants will not address the other extraneous statements, ad hominem attacks, and arguments contained in Plaintiff's letter, except to state that they are inaccurate or irrelevant to any pending issue before the Court.

Respectfully submitted,

/s/ Michael F. Fleming

Michael F. Fleming

C: All Counsel of Record (via ECF)

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The Court is in receipt of Defendants' above letter and has changed the access on Plaintiff's letter filed at docket number 36 to being viewable to the Court and parties only. To the extent Plaintiffs' counsel wishes to file a public letter on the docket without such confidential information regarding settlement, he may do so.

Dated: July 13, 2023 SO ORDERED.
New York, New York



HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE